



TENNESSEE SECURITIES DIVISION

SECURITIES BY COORDINATION/QUALIFICATION/NOTIFICATION

I. REGISTRATION BY COORDINATION

1. Submit Form U-1 (Uniform Application to Register Securities) with all of the items listed in Item 8 of the forms that pertain to your particular offering, bylaws, charter, specimen of security, executed opinion of counsel, advertisement, and any additional information that is pertinent to the offering. The Division requires two prospectuses and one registration statement.
2. Submit a registration filing fee of 1/10 of 1% of the aggregate amount that will be registered in Tennessee. There is a minimum registration fee of \$300.00. The maximum fee required is \$1,000.00.
3. Submit a Form U-2 (Consent to Service of Process) naming the Commissioner of Commerce and Insurance as the designated agent for service of process in Tennessee. If the issuer is corporation, a Form U-2A (Uniform Form of Corporate Resolution) is required.
4. Checks should be made payable to the Tennessee Department of Commerce and Insurance.
5. If a application is withdrawn without prejudice prior to being made effective by the SEC, any portion of the fee exceeding the \$300.00 minimum registration fee is refundable upon written request by the issuer.

Mail the application with the fee and exhibits to:

Tennessee Securities Division
Securities Registration Section
Suite 680, 500 James Robertson Parkway
Nashville, TN 37243-0584

II. REGISTRATION BY QUALIFICATION

1. Submit Form U-1 (Uniform Application to Register Securities) with all of the items listed in Item 8 of the form that pertain to your particular offering, bylaws, charter, specimen of security, executed opinion of counsel, advertisement, and any other information that may be pertinent to the offering. The Division requires two copies of the prospectus, offering circular, or private placement memorandum, whichever is appropriate.

2. Submit a registration filing fee of 1/10 of 1% of the aggregate amount that will be registered in Tennessee. There is a minimum registration fee of \$300.00. The maximum fee required is \$1,000.00.
3. Submit a Form U-2 (Consent to Service of Process) naming the Commissioner of Commerce and Insurance as the designated agent for service of process in Tennessee. If the issuer is corporation, a Form U-2A (Uniform Form of Corporate Resolution) is required.
4. If an application is withdrawn without prejudice prior to being made effective by the SEC, any portion of the fee exceeding the \$300.00 minimum registration fee is refundable upon written request by the issuer.

Mail the application with the fee and exhibits to:

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Nashville, TN 37243-0584

III. RENEWALS

1. If an issuer has not completed sales in the state within twelve months, renewals may be submitted for both coordination and qualification filings.
2. A Form U-1 (Uniform Application to Register Securities) and two copies of the prospectus, offering circular, or private placement memorandum, whichever is appropriate, must be submitted with the appropriate fee calculated at 1/10 of 1% of the aggregate amount remaining to be sold with a minimum of \$300.00 required or a maximum fee of \$1,000.00.

T. C. A. 48-2-106 and 48-2-107. Rule 0780-4-2-.02 and 0780-4-2-.03

IV. NOTICE FILING REQUIREMENTS FOR INVESTMENT COMPANIES

1. Submit a complete and properly executed Form NF (Uniform Investment Company Notice Filing), a completed and properly executed Form U-2 (Consent to Service of Process), a copy of the issuer's prospectus, and statement of additional information; however, if the person making the notice filing provides an accurate filing number from the Electronic Data Gathering Access and Retrieval (EDGAR) system or other electronic data gathering access and retrieval system maintained by the SEC, paper copies of the issuer's prospectus and additional information are not required to be filed with the Division, but a non-refundable filing fee of \$500.00 is required. Send the information to the Tennessee Securities Division, Securities Registration Section, Suite 680, 500 James Robertson Parkway, Nashville, TN 37243-0583.
2. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-125. Rule 0780-4-2-.12

V. NOTICE FILING REQUIREMENTS FOR INVESTMENT COMPANIES RENEWALS

1. A renewal notice shall be filed with the Securities Registration Section within two months of the issuer's fiscal year end.
2. Submit a complete and properly executed Form NF (Uniform Investment Company Notice Filing), a completed and properly executed Form U-2 (Consent to Service of Process), a copy of the issuer's prospectus, and statement of additional information; however, if the person making the notice filing provides an accurate filing number from the Electronic Data Gathering Access and Retrieval (EDGAR) system or other electronic data gathering access and retrieval system maintained by the SEC, paper copies of the issuer's prospectus and additional information are not required to be filed with the Division, but a non-refundable filing fee of \$500.00 is required. Send the information to the Tennessee Securities Division, Securities Registration Section, Suite 680, 500 James Robertson Parkway, Nashville, TN 37243-0583.
3. If the Form U-2 has not been submitted with the Form NF, submit a transmittal letter which states that a completed and executed Form U-2, as provided under T. C. A. 48-2-124(e), is already on file with the Division with respect to the issuer under the issuer's current name.
4. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-125. Rule 0780-4-2-.12

VI. RENEWAL FOR A UNIT INVESTMENT TRUST

1. A renewal notice shall be filed with the Securities Registration Section within two months after the anniversary of the unit investment trust's effective date.
2. Submit a complete and properly executed Form NF (Uniform Investment Company Notice Filing), a completed and properly executed Form U-2 (Consent to Service of Process), a copy of the issuer's prospectus, and statement of additional information; however, if the person making the notice filing provides an accurate filing number from the Electronic Data Gathering Access and Retrieval (EDGAR) system or other electronic data gathering access and retrieval system maintained by the SEC, paper copies of the issuer's prospectus and additional information are not required to be filed with the Division, but a non-refundable filing fee of \$500.00 is required. Send the information to the Tennessee Department of Commerce & Insurance, Securities Division, Securities Registration Section, Suite 680, 500 James Robertson Parkway, Nashville, TN 37243-0583.
3. If the Form U-2 has not been submitted with the Form NF, submit a transmittal letter which states that a completed and executed Form U-2, as provided under T. C. A. 48-2-124(e), is already on file with the Division with respect to the issuer under the issuer's current name.

4. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-125. Rule 0780-4-2-.12

VII. NOTICE FILINGS FOR REGULATION D 505 FILINGS

1. An issuer of a Notice Filing under Regulation D 505 shall file, within 15 days after the first sale in this State, a completed and properly executed Form D (Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption), including Part E and the appendix, a Form U-2 (Consent to Service of Process), non-refundable filing fee of \$300.00, and a cover letter noting the first day of sale in this State to the Tennessee Securities Division, Securities Registration Section, Suite 680, Nashville, TN 37243-0583.
2. Submit a copy of the issuer's private placement memorandum or offering circular containing the legend specified in 0780-4-2-.08(2)(f).
3. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-103(b)(11). Rule 0780-4-2-.08

VIII. FILINGS FOR REGULATION D 506 NOTICE FILINGS

1. An issuer of a Notice Filing under Regulation D 506 shall file, within 15 days after the first sale in this State, a completed and properly executed Form D (Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption), including Part E and the appendix, a Form U-2 (Consent to Service of Process), a non-refundable filing fee of \$500.00, and a cover letter noting the first day of sale in this state to the Tennessee Securities Division, Securities Registration Section, Suite 680, Nashville, TN 37243-0583.
2. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-125. Rule 0780-4-2-.12

IX. NOTICE FILINGS FOR EMPLOYEE PLANS

1. All issuers offering securities in or into this state in reliance on an exemption to sell securities in an employee stock purchase/option plan must file with the Commissioner, no later than 15 days after the first sale, a Form IN-1461 (Notice of Sale of Securities Pursuant to Employee Stock Purchase/Option Plan Exemption Form), a Form U-2 (Consent to Service of Process), a Form U-2A (Uniform Form of Corporate Resolution - if the issuer is a corporation), a non-refundable fee of \$500.00, and a statement noting the date of the first sale, if any.

2. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-103(b)(9). Rule 0780-4-2-.13

X. NOTICE FILINGS FOR SECURITIES SOLD TO ACCREDITED INVESTORS

1. All issuers offering securities in or into this state in reliance on an exemption to sell securities in an employee stock purchase/option plan must file with the Commissioner, no later than 15 days after the first sale, a Form IN-1460 (Notice of Sale of Securities Pursuant to Accredited Investor Exemption Form), a Form U-2 (Consent to Service of Process), a copy of the general announcement, if any, a non-refundable fee of \$500.00, and a statement noting the date of the first sale, if any.
2. Checks should be made payable to the Tennessee Department of Commerce and Insurance.

T. C. A. 48-2-103(b)(14). Rule 0780-4-2-.14

The Tennessee Securities Act of 1980 (Tennessee Code 48-2-101 et seq.) may be viewed at <http://www.michie.com> or obtained from the Tennessee Securities Division, upon request.

The Tennessee Securities Rules may be viewed at <http://www.state.tn.us/sos/rules/rules.htm> (Chapter 0780-4-3) or obtained from the Tennessee Securities Division, upon request.

The Tennessee Securities Act and Rules are also available in the Commerce Clearinghouse Blue Sky Law Reporter.

DEFINITIONS *(This compilation is intended solely as an informal guide – please see the Tennessee Securities Act of 1980, as amended, and the Tennessee Securities Rules promulgated thereunder for the original definitions and the context in which they have been formally adopted.)*

"Accredited investor" means accredited investor, as that term is defined in Rule 501 of Regulation D under the Securities Act of 1933 (17 C. F. R. § 230-501), as amended.

"Act" means Chapter 866 of the Public Acts of 1980, otherwise known as the Tennessee Securities Act of 1980, as amended, and its codification in Tennessee Code Annotated (T. C. A.).

"Affiliate" means a person who, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with, another person.

"Agent" means any individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities from, in, or into this state. A partner, officer, director, or manager of a broker-dealer, or a person occupying similar status or performing similar functions, is an agent only if such person otherwise comes within this definition or receives compensation specifically related to purchases or sales of securities from, in, or into this state. "Agent" does not include such other persons not within the intent of this subdivision as the commissioner may, by rule, exempt from this definition as not in the public interest and necessary for the protection of investors.

"Assistant Commissioner" means the Assistant Commissioner for the Division of Securities of the Department of Commerce and Insurance of the State of Tennessee, or any successor person authorized to exercise similar function.

"Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others, or any person engaged in the business of buying or selling securities issued by one (1) or more other persons for such person's own account and as part of a regular business rather than in connection with such person's investment activities. "Broker-dealer" does not include:

- (A) Issuers, except to the extent provided in T. C. A. 48-2-110(f);
- (B) An agent;
- (C) An institutional investor;

(D) A person who has no place of business in this state and who is registered as a broker-dealer with the securities and exchange commission or the National Association of Securities Dealers if:

(i) The person effects transactions in this state exclusively with or through:

(a) The issuers of the securities involved in the transactions;

(b) Other broker-dealers; or

(c) Institutional investors; or

(ii) During any period of twelve (12) consecutive months, the person does not effect more than fifteen (15) transactions in securities from, in, or into this state [other than to persons specified in subdivision (D)(i)]; or

(E) Such other persons not within the intent of this definition as the commissioner may, by rule, exempt from this definition as not in the public interest and necessary for the protection of investors;

"Commissioner" means the Commissioner of the Tennessee Department of Commerce and Insurance.

"Control," including **"controlling," "controlled by,"** and **"under common control with,"** means the possession, directly or indirectly, of the power to direct or compel the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

"Covered security" means any security:

(A) Listed or authorized for listing on the New York Stock Exchange or the American Stock Exchange, or listed on the National Market System of the NASDAQ Stock Market (or any successor to such entities);

(B) Listed or authorized for listing on a national securities exchange (or tier or segment thereof) that has listing standards that the securities and exchange commission determines by rule (on its own initiative or on the basis of a petition) are substantially similar to the listing standards applicable to securities described in subdivision (A);

(C) That is a security of the same issuer that is equal in seniority or that is a senior security to a security described in subdivision (A) or (B);

(D) Issued by an investment company that is registered or that has filed a registration statement under the Investment Company Act of 1940;

(E) Sold to qualified purchasers, as defined by the securities and exchange commission; or

(F) That is issued in connection with a transaction that is exempt from registration under the Securities Act of 1933 pursuant to:

(i) Paragraph (1) or (3) of § 4 of the Securities Act of 1933, and the issuer of such security files reports with the securities and exchange commission pursuant to § 13 or 15(d) of the Securities and Exchange Act of 1934, as amended;

(ii) Section 4(4) of the Securities Act of 1933;

(iii) Section 3(a) of the Securities Act of 1933, other than the sale of a security that is exempt from such registration pursuant to paragraph (4) or (11) of § 3(a) of the Securities Act of 1933, except that a municipal security that is exempt from registration under the Securities Act of 1933 pursuant to paragraph (2) of § 3(a) of that act is not a "covered security" with respect to the sale of such security in Tennessee if the issuer of such security is located in Tennessee;

(iv) Securities and Exchange Commission rules or regulations issued under paragraph (2) of § 4 of the Securities Act of 1933.

"CRD" (also known as "Web CRD") means the NASAA/NASD Central Registration Depository.

"Division" means the Assistant Commissioner, staff, employees and agents of the Securities Division of the Department of Commerce and Insurance of the state of Tennessee or such other agency as shall administer the Act or any successor statute.

"Government Securities Broker-dealer" means a broker-dealer who effects transactions only in securities issued or guaranteed by the United States of America or an instrumentality thereof.

"IARD" means the Investment Adviser Registration Depository as operated by the NASD in cooperation with NASAA, other states, and the United States of America.

"Institutional investor" means a bank [unless the bank is acting as a broker-dealer as such term is defined in § 48-2-109(a)], trust company, insurance company, investment company registered under the Investment Company Act of 1940, as amended, a holding company which controls any of the foregoing, a trust or fund over which any of the foregoing has or shares investment discretion, a pension or profit-sharing plan, an institutional buyer (as the commissioner may further define by rule), or any other person engaged as a substantial part of its business in investing in securities unless such other person is within the definition of a broker-dealer (in which case such other person is not an institutional investor), in each case having a net worth in excess of one million dollars (\$1,000,000).

"Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, buying, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

- (A) A bank (unless it is acting as an investment adviser for a registered investment company), savings institution, or trust company;
- (B) A lawyer, accountant, engineer, or teacher whose performance of investment advisory services is solely incidental to the practice of such lawyer's, accountant's, engineer's or teacher's profession;
- (C) A broker-dealer whose performance of investment advisory services is solely incidental to the conduct of such person's business as a broker-dealer and who receives no special compensation for such services;
- (D) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;
- (E) A person who has no place of business in this state if:
 - (i) The person's only clients in this state are other investment advisers, broker-dealers, or institutional investors; or
 - (ii) During any period of twelve (12) consecutive months, the person does not direct business communications into this state in any manner to more than five (5) clients [other than those specified in subdivision (E)(i)], whether or not such person or any of the persons to whom the communications are directed are then present in this state; or
- (F) Such other persons not within the intent of this definition as the commissioner may, by rule, exempt from this definition as not in the public interest and necessary for the protection of investors.

"Issuer" means every person who issues any security, except that:

- (A) With respect to certificates of deposit, voting-trust certificates, collateral-trust certificates, certificates of interest or shares in an unincorporated investment trust which is of the fixed, restricted management or unit type or which does not have either a board of directors or persons performing similar functions, "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement under which such securities are issued;
 - (B) With respect to equipment-trust certificates or like securities, "issuer" means the person by whom the property is or is to be used; and
 - (C) With respect to a fractional undivided interest in oil, gas, or other mineral rights, "issuer" means the owner of such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of sale.
- Any person who acts as a promoter for or on behalf of a corporation, trust, or unincorporated association or partnership of any kind to be formed shall be deemed to be an issuer of preincorporation subscriptions or certificates.

"NASAA" means the North American Securities Administrators Association, Inc.

"NASD" and **"NASDR"** mean the National Association of Securities Dealers, Inc. and the National Association of Securities Dealers Regulation, Inc.

"NASDAQ/NMS" means the National Association of Securities Dealers Automated Quotation National Market System.

"Person" means a natural person, a sole proprietorship, a corporation, a partnership, an association, a limited liability company, a joint-stock company, a trust, a governmental entity or agency, or any other unincorporated organization.

"Promoter" means:

- (A) Any person who, acting alone or in conjunction with one (1) or more persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer; or
- (B) Any person who, in connection with the founding or organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, ten percent (10%) or more of any class of securities of the issuer or ten percent (10%) or more of the proceeds from the sale of any class of securities, provided that a person who receives such securities or proceeds, either solely as underwriting commissions or solely in consideration of property, shall not be deemed a promoter within the meaning of this definition if such person does not otherwise take part in founding and organizing the enterprise.

"Sale," "sell," "offer," and "offer to sell," mean:

- (A) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.
- (B) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.
- (C) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other property is considered to constitute part of the subject of the purchase and to have been offered and sold for value;
- (D) A purported gift of an assessable security is considered to involve an offer and sale;
- (E) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert such security into another security of the same or another issuer, is considered to include an offer of the other security;
- (F) The terms listed in this definition do not include any bona fide:
 - (i) Gift, other than as set forth in subdivision (D);
 - (ii) Transfer by death;
 - (iii) Transfer by termination of a trust;
 - (iv) Pledge or security loan;
 - (v) Stock split or reverse stock split;
 - (vi) Security dividend, whether the security is issued by the same or another company, if nothing of value is surrendered by security holders for the security dividend other than

the right to a cash or property dividend where each security holder may elect to take the dividend in cash or property or in stock;

(vii) Act incident to a class vote by stockholders, pursuant to the charter or the applicable corporation statute, on a merger, consolidation, recapitalization, or sale of assets in exchange for securities of another corporation; or

(viii) Act incident to a judicially approved transaction in which a security is issued in exchange for one (1) or more outstanding securities, claims, or property interests, or part in such exchange and partly for cash.

"SEC" means the Securities and Exchange Commission of the United States of America or its staff, as appropriate.

"Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, a life settlement contract (as defined in T. C. A. 56-50-102), or any fractional or pooled interest in a life insurance policy or life settlement contract, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. *"Security" shall include the practice of "equity funding", "security funding" or "life funding" whereby mutual fund shares and insurance contracts are sold as a package with mutual fund shares being pledged as collateral for loans, the proceeds of which are used to pay the premium on life insurance policies.*

"Security" does not include:

(A) Currency;

(B) A check (certified or not), draft, bill of exchange, or bank letter of credit;

(C) A note or other evidence of indebtedness issued in a mercantile or consumer, rather than an investment, transaction;

(D) An interest in a deposit account with a bank or a savings and loan association; or

(E) An insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

"Senior security" means any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and any stock of a class having priority over any other class as to distribution of assets or payment of dividends.

"Solicitor" (regarding investment adviser solicitations) means any person who, directly or indirectly, solicits any client for, or refers any client to an investment adviser.

"State" means any state, territory, or possession of the United States of America, the District of Columbia and Puerto Rico.

"UAPA" means the Uniform Administrative Procedures Act as set forth in T. C. A. 4-5-101, et seq., and any rules promulgated thereunder to the extent such rules are not inconsistent with the Act or these rules.

"Underwriter" means any person who has purchased from an issuer or an affiliate of an issuer with a view to, or who sells for an issuer or an affiliate of an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking, provided that a person shall be presumed not to be an underwriter of a security which such person has owned beneficially for two (2) years or more, and further provided that a broker-dealer shall be presumed not to be an underwriter with respect to any security which does not represent part of an unsold allotment to or subscription by the broker-dealer as a participant in the distribution of such security, and further provided that in the case of any security acquired on the conversion of another security without payment of additional consideration, the length of time such convertible security has been beneficially owned by such person shall include the period during which such convertible security was beneficially owned and the period during which the security acquired on conversion was beneficially owned.